

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MICHAEL D. ROSE,
ROBERT C. CHURCH, SR.,
NICOLE HENRY,
EDWARD L. HARMON,
WILLIAM BOHN,
TONYA PERSINGER,
*on behalf of themselves and
others similarly situated,*
BRYAN STAFFORD, *in his capacity
as Executor of the Estate of*
THOMAS FLEENOR, JR.,
JOHN CRABTREE,
STEVEN MARTIN,
GARY TOLER,
ELGIE ADKINS,
and SABRINA EAGLE,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

CIVIL ACTION NO. 5:22-cv-00405

PRIMECARE MEDICAL, INC.,
PRIMECARE MEDICAL OF WEST VIRGINIA, INC.
THOMAS WEBER,
BRETT BAVINGTON,
TODD HESKINS,
KRISTA VALLANDINGHAM,
MELISSA JEFFERY,
BRANDY EASTRIDGE,
HELEN PERKINS,
JESSICA MILLER,
WEXFORD HEALTH SOURCES, INC.,
MARY STONE,
DANIEL CONN,
ELAINE GEDMAN,

JOHN FROELICH,
HUMAYAN RASHID, M.D.,
ANGELA NICHOLSON, MSN, APRN, FNP-C,
AMBER DUNCAN,
LISA MULLENS, LPN,
CASSEY BOLEN,
JOHN PENNINGTON, MA, LPC, NCC, NCSC,
KENNADI SMITH, LPN,
ASHLEY VALLANDINGHAM, LPN,
BRITTANI MARSHALL, RN,
ASHLEY STROUP, LPN,
JOHN AND JANE DOE
PRIMECARE AND WEXFORD EMPLOYEES.
and TAYLOR BROOKS,

Defendants.

ORDER

On May 15, 2025, the Court entered its Memorandum Opinion and Order [ECF 1344] denying Plaintiffs' motions for class certification [ECFs 1181, 1185]. None of the parties appealed that written opinion and order. On June 16, 2025, the Court entered an Order [ECF 1350] directing Plaintiffs to show cause on or before July 1, 2025, why this action should not be dismissed without prejudice to the individual Plaintiffs being given leave to file their own individual actions. Plaintiffs filed a Response on June 26, 2025. [ECF 1354].

In their Response, Plaintiffs ask the Court to sever their claims in lieu of dismissal of the action. [*Id.* at 1]. Further, “[u]pon the assignment of new civil action numbers and entry of the same upon the docket, Plaintiffs request leave to file new Complaints setting out only their individual claims to avoid confusion arising from use of the *Third Amended Complaint* setting forth the class allegations in this matter.” [*Id.*]. “Plaintiffs aver that this proposal is consistent with the procedural rules and cases line outlined in the Court’s Order and further obviates any need for

outright dismissal or preservation of rights to refile.” [*Id.*].

Federal Rule of Civil Procedure 21 provides that a district court “may at any time, on just terms, add or drop a party” or “sever any claim against a party.” Fed. R. Civ. P. 21. This rule gives the Court broad discretion to sever claims. *See Ellis v. Werfel*, 86 F.4th 1032, 1037 (4th Cir. 2023) (reviewing a district court’s severance under Rule 21 for abuse of discretion); *Weaver v. Marcus*, 165 F.2d 862, 864 (4th Cir. 1948) (stating that “ordinarily, the exercise of such discretion by the District Judge can be reversed on appeal only when there has been a clear abuse thereof”). The Court finds that severance of Plaintiffs’ claims is warranted.

Accordingly, the Court **DIRECTS** the Clerk to sever the claims as to each Named Plaintiff. The Court **ORDERS** that Named Plaintiffs shall each have leave to file an Amended Complaint in their respective, new cases **no later than August 1, 2025**. The Court further **ORDERS** that Plaintiffs’ Motion for Preliminary Approval [ECF 1352], filed June 16, 2025, is **DENIED**. The Court additionally **ORDERS** that upon the opening of the new aforementioned cases, this action is **DISMISSED** and **STRICKEN** from the docket.

The Clerk is **DIRECTED** to send a copy of this Order to counsel of record, who in turn shall provide a copy to each individual Plaintiff, and any unrepresented party.

ENTER: July 14, 2025



Frank W. Volk
 Frank W. Volk
 Chief United States District Judge